

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) Docket No. 12-
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)
) CASH WILEY, an individual doing
) business as WILEY EXOTICS and
) SHARKAROSA EXOTICS; and ERIC
) JOHN DROGOSCH, an individual,
)
) Respondents) COMPLAINT

There is reason to believe that the respondents named herein have willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.)(the "Regulations" and "Standards"). Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent Cash Wiley is an individual whose business mailing address is 7007 Van Zandt C.R. 2120, Wils Point, Texas 75169. At all times mentioned herein, said respondent was operating as a dealer, as that term is defined in the Act and the Regulations, did business as Cash Wiley Exotics and/or Sharkarosa Exotics, and did not hold a valid license issued by the Secretary.

2. Respondent Eric John Drogosch is an individual whose mailing address is 22 West Tulsa, Sulphur, Oklahoma 73086. At all times mentioned herein, said respondent was operating as a dealer, as that term is defined in the Act and the Regulations. Respondent Drogosch previously held AWA license number 74-C-0536, which was revoked by order of the Secretary in 2004. Respondent Drogosch has a history of violations. *In re Eric John*

Drogosch, dba Animal Adventures America, 63 Agric. Dec. 623 (2004).

3. Respondents' violations are serious, involving the unlicensed dealing in animals for exhibition and the mishandling of animals. Three animals died shortly after their transportation by respondents. Respondent Drogosch has not shown good faith. Following the revocation of his license, Drogosch has continued to engage in regulated activity, in violation of the Act and the Regulations, and a cease-and-desist order issued by the Secretary. *In re Eric John Drogosch, dba Animal Adventures America*, 63 Agric. Dec. 623 (2004). Therefore, said respondent is subject to a civil penalty of \$1,650 "for each offense, and each day during which such failure continues shall be deemed a separate offense." 7 U.S.C. § 2149(b); 7 C.F.R. § 3.91.

ALLEGED VIOLATIONS

1. On or about August 13 through 15, 2007, respondents Wiley and Drogosch operated as dealers, as that term is defined in the Act and the Regulations, without having been licensed by the Secretary to do so, and specifically, offered for sale, sold, delivered for transportation, transported, bought, or negotiated the sale of five animals (four Barbary sheep and one wildebeest) for use in exhibition, in willful violation of section 2134 of the Act (7 U.S.C. § 2134) and section 2.1(a) of the Regulations (9 C.F.R. § 2.1(a)).

2. On or about August 13, 2007, respondent Cash Wiley operated as a dealer, as that term is defined in the Act and the Regulations, without having been licensed by the Secretary to do so, and specifically, delivered for transportation and transported two animals (camels) for use in exhibition, in willful violation of section 2134 of the Act (7 U.S.C. § 2134) and section 2.1(a) of the Regulations (9 C.F.R. § 2.1(a)).

3. On or about August 13, 2007, respondent Drogosch operated as a dealer, as that term is defined in the Act and the Regulations, without having been licensed by the Secretary to do so, and specifically, said respondent, in commerce, offered for sale, sold, delivered for transportation, transported or negotiated the sale of seven animals (four Barbary sheep, one wildebeest, and two camels) for use in exhibition, in willful violation of section 2134 of the Act (7 U.S.C. § 2134) and section 2.1(a) of the Regulations (9 C.F.R. § 2.1(a)).

4. On or about the following dates, respondent Wiley operated as a dealer, as that term is defined in the Act and the Regulations, without having been licensed by the Secretary to do so, and specifically, said respondent, in commerce, offered for sale, sold, delivered for transportation, transported, bought or negotiated the purchase or sale of animals for use in exhibition, to or from Sharkarosa Wildlife Ranch, Pilot Point, Texas, in willful violation of section 2134 of the Act (7 U.S.C. § 2134) and section 2.1(a) of the Regulations (9 C.F.R. § 2.1(a)):

- a. February 24, 2009: One Nubian Ibex
- b. April 4, 2009: One coatimundi and one Mini Zebu calf
- c. June 17, 2009: Seven animals
- d. July 9, 2009: One red-fronted lemur
- e. August 12, 2009: Two ring-tailed lemurs
- f. November 8, 2009: Two Barasingha deer and four guanaco

5. From on or about August 13 through August 15, 2007, respondents Wiley and Drogosch failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, and specifically, transported seven animals (four Barbary sheep, one wildebeest, and two camels), each of which had one or more pre-existing veterinary medical problems, approximately 1,000 miles from Texas to Camp Verde, Arizona, without having had a veterinarian examine the animals or having obtained health

certificates for the animals, in willful violation of section 2.131(b)(1) of the Regulations (9 CF.R. § 2.131(b)(1)).

6. From on or about August 13 through August 15, 2007, respondents Wiley and Drogosch failed to provide adequate veterinary care to seven animals (two camels, one wildebeest and four Barbary sheep), each of which was in need of veterinary medical attention, in willful violation of section 2.40(b)(2) of the Regulations (9 CF.R. § 2.40(b)(2)).

7. From on or about August 13 through August 15, 2007, respondents Wiley and Drogosch failed to feed animals wholesome, palatable food free from contamination, and of sufficient quantity and nutritive value to maintain animals in good health, in willful violation of section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)) and section 3.129 of the Standards (9 C.F.R. § 3.129).

8. From on or about August 13 through August 15, 2007, respondents Wiley and Drogosch failed to ensure that seven animals in transit were visually observed at least once every four hours, to ensure that they were receiving sufficient air, that ambient temperatures were within prescribed limits, that applicable Standards were met, and that the animals were not in obvious physical distress, in willful violation of section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)) and section 3.140 of the Standards (9 C.F.R. § 3.140).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et

seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests that unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this matter proceed to oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order requiring the respondents to cease and desist from violating the Act and the regulations and standards issued thereunder, and, in accordance with the Act, assessing civil penalties against both respondents for the violations herein, and assessing additional civil penalties against respondent Drogosch for knowingly disobeying a cease-and-desist order issued by the Secretary.

Done at Washington, D.C.
this 30th day of July 2012

Acting


Administrator
Animal and Plant Health Inspection Service

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